IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Crl.MC.No. 2668 of 2007()

ST.455/2006 of JUDL. MAGISTRATE OF FIRST CLASS-III, KOCHI

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PETITIONER: ACCUSED

MR.VINESH, AGED 29 YEARS,
S/O SURENDRAN, THAMPIDISSERIAL,
KILIKOLLOOR P.O., PUNTHALATHAZHAM, KOLLAM.

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENTS: STATE & COMPLAINANT

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1. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE MANAGER,
I.N.G. VAIZHYA BANK LTD., KOLLAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2668 of 2007

Dated this the 21st day of August 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. According to the petitioner, the matter was talked over and the dispute was settled. Complainant had agreed to do the needful to withdraw the complaint. But unfortunately, the complainant has not withdrawn the complaint so far. The petitioner was waiting bona fide hoping that the needful shall be done and the case shall be put to an end. Now the petitioner finds that the learned Magistrate, reckoning the petitioner as an absconding accused, has initiated coercive processes against the petitioner. A warrant of arrest issued by the learned Magistrate is chasing the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful. The petitioner is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C.

may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007